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Testimony of David Hurley
To the Commerce Committee
March 8, 2011

In Support of HB 6526, An Act Concerning Brownfield Remediation and Development

My name is David Hurley and I am a resident of Ellington. I am a Connecticut Licensed Environmental Professional and a Vice President and Director of Brownfields Programs at the Consulting Engineering firm Fuss and O'Neill Inc. of Manchester and Trumbull. I am a member of the General Assembly's Brownfield Remediation Working Group. I am here to speak in favor of House Bill 6526.

There are many challenges to the redevelopment of Brownfields sites. These include developing an understanding of the contamination at a site, the cost of assessment and remediation, potential third party liability, and regulatory complexities. The most significant challenges that I see affect potential redevelopers and municipalities are the difficulty in quantifying the upper limit of environmental costs, the long term potential liability associated with our laws and regulations, and the ultimate length of time it takes to redevelop the site and bring the remediation to finality.

Over the past five years these challenges have progressively been addressed by legislation introduced by this Committee. I would like to thank the Chairmen for your commitment and effort to move these issues forward. HB 6526 continues to address these challenges by providing some clarification of responsibilities under the Transfer Act, providing a mechanism for reclassification of waters in the state where it makes sense and establishing the Notice of Activity and Use Limitation, which is intended to simplify the administrative controls for these sites.

Section 17 of this Bill offers a clear, streamlined and predictable program for cleaning up these sites while using our current cleanup standards. This program will provide the clarity and certainty that will attract private investment necessary to redevelop these sites.

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Other states with successful Brownfields programs, such as New York and Pennsylvania, acknowledge that a party that has no connection with the historic ownership and activities of these sites and who is willing to take on the burdensome and expensive cleanup of the site should be provided some limits to their responsibilities and liabilities associated with environmental conditions. Section 17 of this Bill provides a separate Brownfields program that doesn't burden the applicant with the liability of other programs and then provides liability relief during the cleanup process and upon satisfactory completion of the cleanup. The innocent purchaser is responsible for cleaning up the site. If historic activities or releases from the site affected areas beyond the property limits, the same parties that were responsible prior to the applicants purchase would remain responsible. Under current law, if a metals products manufacturing company discharged metals to a river from 1890s to the 1960s the new innocent purchaser of their property is responsible for studying the metals in the river and their ecological impact for some, to be determined, distance downstream. Typically, here in Connecticut, other facilities have also contributed to impacts in the river and the responsibilities would have to be sorted out and apportioned. Section 17 addresses this barrier to redevelopment by making the innocent purchaser responsible for the property they purchase only. It would be acknowledged that the collective impacts of our manufacturing heritage can't be assumed by an innocent purchaser.

Brownfield sites are located throughout the state, in our cities, towns and historic villages. They may be large sites that have the potential for regional economic impacts or small blighted properties in our urban neighborhoods. Our brownfields programs should encourage private investment and remove the barriers to redevelopment in the small neighborhood sites as well as the larger regional impact sites. Thank you for the opportunity to speak about these issues and thank you for your ongoing commitment to helping Brownfields Redevelopment in Connecticut.